



Independent Communications Authority of South Africa

Review of Self-Help Stations

Position Paper

February 2006



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1. INTRODUCTION

The Independent Communications Authority of South Africa (“the Authority”) published a Discussion Paper (“the Discussion Paper”) on the Review of Self-Help Stations (“the Review”) on 6 December 2004. The purpose of the Discussion Paper was to generate comment from all stakeholders on the Review of Self-Help Stations. Section 28 of the Independent Broadcasting Act, No. 153 of 1993 (“IBA Act”) provides that the Authority may from time to time conduct an inquiry into any matter relevant to the achievement and application of the principles of broadcasting as enunciated in section 2 of the Act. The primary objective of the inquiry was to:

- solicit participation and input in reviewing the regulatory framework for Self-Help stations in South Africa; and
- generate discussion on the appropriate policy and licensing framework for Self-Help stations.

The Authority invited interested parties, stakeholders and the public to comment and respond to the issues and questions raised. The closing date for the receipt of submissions was 31 January 2005.

The Authority received four submissions. Oral hearings were scheduled for the 14th of April 2005. The oral hearings had to be cancelled as submitters withdrew from participating in the oral hearings.

The Position Paper is divided into two major parts, namely Submissions and Policy. The part referring to Submissions, reflects questions posed in the Discussion paper and also summarises the written submissions on these and related questions. Lastly, the Policy part sets out the Authority’s policy on Self-Help stations.

2. BACKGROUND

The regulatory framework governing Self-Help stations was conceptualised at a time when there was an illegal mushrooming of unauthorised relay transmitters which at the time were capable of causing interference to viewers and listeners within the coverage areas. Public interest necessitated that a regulatory framework be developed to address this public demand.

The framework was agreed between the Post Master General, the SABC and the Minister of Education in terms of which the SABC would consider rolling out transmitters as an extension of their networks. The necessary authorisations and specifications were issued. It is against this background that the Position Paper on the regulation of the self-help was published. The IBA Act, or the Broadcasting Act do not deal with Self-Help stations.

The Authority had to devise a policy outlining its approach to Self-Help stations in order to:

- establish and govern a co-ordinated Self-Help stations environment;
- create gap fillers until the broadcaster concerned addressed its universal service obligations and extend its network to its coverage areas; and
- create an environment that allowed proper and co-ordinated frequency management policy frameworks, as frequencies for Self-Help stations would be assigned in accordance with the national frequency plan as required in section 31 of the IBA Act.

3. DEFINING SELF-HELP STATIONS

The Authority's Position Paper on Self-Help Stations (1999), defined a Self-Help station 'as a community owned and funded relay station, which transmits the signal of a broadcaster within the license area of that broadcaster in cases where, for technical or other reasons, the broadcaster's signal cannot be received'. The Position Paper states that Self-Help stations may be of a temporary nature where communities do not wish to wait for the broadcaster to extend its coverage to that area, or permanent when serving isolated, sparsely populated areas which are not economically viable to be covered by the broadcaster.¹

The Discussion Paper listed the following as the key principles of Self-Help stations:

- community driven initiative;
- confined to ERP of 50W; and
- Self-Help site operations.

The question posed in the Discussion Paper was whether the current definition of Self-Help stations was sufficient and whether there were other issues that needed to be included in the definition.

The Discussion Paper also stated that the Position Paper confines Self-Help stations to an ERP of 50W. *"However, Annexure I to the Position Paper contains a contradictory position which provides that the maximum effective radiated power is*

¹ Independent Communications Authority of South Africa, Review of Self-Help Stations Policy: Discussion Paper, at page 12.

200 kW for Band III and 500kW for Band IV/V”.² The Discussion Paper sought opinion on the remedy(s) to be applied to correct the situation.

Orbicom (Pty) Ltd/M-Net submitted that the definition in the 1999 Position Paper should be retained as it is still applicable in the contemporary environment.³

Sentech Limited (“Sentech”) agreed with the definition and further pointed out that the definition of Self-Help stations should not be confused with that of community broadcasting. Sentech further suggested that in developing a policy and regulatory framework for Self-Help stations, the Authority needed to consider the nature and operations of self-help stations, the purposes for which they were established, and their fundamental characteristics, and define them accordingly, without blurring their distinction from community broadcasters. Sentech argued further that Self-Help stations should not be seen as a separate broadcasting category.⁴

Sentech further submitted that it dissented with the statement in the Discussion Paper that some Self-Help stations could become permanent when serving isolated, sparsely populated areas which are not economically viable to be covered by the broadcaster.

“This position is informed by the fact that Self-Help stations are meant to be used as temporary gap fillers while the broadcaster expands its services to the particular geographic area, and not meant to mitigate the broadcaster’s universal access and service obligations. To elevate the Self-Help stations to a permanent feature in a particular geographic area would have the effect of exonerating a broadcaster from fulfilling its universal access and service obligations, which is not the intention of policy or the Position Paper on establishing Self-Help stations. The fact that self-help facilities are self-funded by communities and generally provide access for those who

² Independent Communications Authority of South Africa, Review of Self-Help Stations Policy: Discussion Paper, at page 15

³ Orbicom/M-Net, Submission to ICASA: Review of Self-Help Stations Policy, at paragraph 2.0.

⁴ Sentech, Submission to ICASA: Review of Self-Help Stations Policy, at page 8.

can afford to contribute towards such facilities substantiates Sentech's views that such facilities should not be seen as fulfilling the broadcaster's universal access obligations.

Sponsorship of self-help facilities by government or associated institutes should not be considered, as it would detract from the very principle of a Self-Help facility. Any notion of such sponsorships for broadcasting access purposes should rather be presented to the public broadcaster who would then apply such funds in mandating its signal distributor for the establishment and operation of service coverage in a professional and auditable manner.”⁵

Sentech went further to argue that Annexure I in the Authority's 1999 Position Paper should be removed as it was imported from the ITU Regional Agreement and that this was contradictory with the South African confines of Self-Help Stations.⁶ Sentech argued that the Technical Regulations that the Authority referred to were for broadcasting services and that the ERPI listed did not pertain to Self-Help Stations.

Sentech's view was shared by the South African Broadcasting Corporation (“the SABC”) which felt that the provision for maximum effective radiated power provided for in the Position Paper with regard to Self-Help Stations was misplaced and misleading. The SABC, however, proposed that exceptions should be allowed in certain circumstances which warrant effective radiated power higher than 50w to the extent that it is justified by the circumstances.⁷

⁵ Sentech, at page 4.

⁶ Sentech, at page 10.

⁷ SABC, Submission to ICASA: Review of Self-Help Stations Policy, at page 17

4. APPLICATIONS PROCEDURES

The practice has been that an operator of a Self-Help site, which is the relevant community, approaches the broadcaster for permission to relay a broadcaster's material to the particular station. A licensed signal distributor provides technical advice and the necessary technical planning which would be provided to the Authority on lodging the application. The broadcaster lodges the application on behalf of the community as an amendment to its licence conditions.⁸

Application for the licensing of Self-Help stations is made by the broadcaster whose material will be relayed on the transmitter site and this would thus lead to the amendment of the licence conditions of the particular broadcaster. Licences are considered when a broadcaster has accumulated a batch of applications or as specified by the Authority in the months of March, June and November of the year. This is done so as to reduce the costs incurred when a license amendment is being considered.⁹

The Discussion Paper asked for an opinion on the appropriate application procedure for self-help stations. The Discussion Paper also indicated that although the current policy indicates that the ultimate responsibility lies with the broadcaster, the nature of the residual relationship between the broadcaster, the community and the signal distributor is problematic. The Discussion Paper sought opinion on the party that should be held liable in the event problems arose..

Sentech submitted that the application procedures should remain the same.

“The broadcaster concerned should be the one that applies to ICASA for amendments to its license conditions. The procedure should be that the aspirant self-help station should approach the broadcaster with their requirement and the

⁸ Independent Communications Authority of South Africa, Review of Self-Help Stations Policy: Discussion Paper, at page 14

⁹ *ibid*

broadcasting signal distributor should then obtain the broadcaster's approval and compile broadcasting characteristics to which the service must comply, for submission by the broadcasting signal distributor with ICASA. On approval, an agreement is entered into between the broadcaster, the Self-Help operator and the signal distributor".¹⁰

The NAB submitted that the concerned broadcaster should remain the licensee of self-help stations to ensure improved co-ordination and compliance as broadcasters are better equipped to deal with issues of a technical nature.

The SABC submitted that the signal distributor should be the one that submits the application to the Authority instead of the broadcaster as the signal distributor is best placed to deal quickly and efficiently with these applications because frequencies assigned to self-help stations are usually not contested and cover only a small area without causing interference.

"The Authority will then deal with the signal distributor and the certainty will be drawn from then on who will be responsible for the administration of the Self-Help station. This will allow for the signal distributor to lodge in one application for a multiple broadcasters and cut down on dual licensing processes. Agreements between the signal distributor, the broadcaster and Self-Help stations should clearly spell out the respective responsibilities and the Authority should be privy to these agreements and then the liabilities of each party would be clearly spelt out".¹¹

The SABC proposed that the following process be followed:

- the application should granted upon notice by the Authority in the government gazette, pending further investigation by the Authority within sixty days, i.e.

¹⁰ Sentech, at page 9

¹¹ SABC, at page 14.

thirty days for comments and additional thirty days for the Authority to investigate/evaluate the application;

- should there be queries on the application; the Authority should give a directive for remedial action rather than refusing the application;
- the absence of further communication from the Authority within sixty days shall mean that the Authority fully grants the application and all parties are certain that the application complies with the Authority's requirements¹².

The SABC also suggested that applications for Self-Help stations should be deemed granted upon notice to the Authority, however due process of notice to the public in the government gazette should be followed and that the Authority's discretion to review a particular application should not be fettered. The SABC further submitted that if the Authority was in agreement with the process of notification by the applicant rather than following the conventional procedure of application, then there would be no need to prioritise as all applications would be deemed approved, unless the Authority decided otherwise¹³.

The SABC also submitted that policy and licensing framework should not attempt to impose requirements on the licensing of Self-Help stations, normally reserved for the licensing of full-scale broadcasters.

5. RESIDUAL RELATIONS BETWEEN THE BROADCASTER, THE SIGNAL DISTRIBUTOR AND THE COMMUNITY

The Discussion Paper raised the issue of residual relations between the Self-Help site operator, the broadcaster, and the signal distributor.

Sentech submitted that the broadcaster is tied to the Self-Help station by virtue of its permission granting the Self-Help station the right to relay its content and the contractual agreement resulting therefrom.

¹² SABC, at page 12.

¹³ SABC, at pages 12 and 13

A problem arises where the Self-Help station has permission to relay more than one broadcaster's content and in which case the broadcaster has limited control over the operations of the Self-Help station¹⁴.

Sentech proposed that the licensed signal distributor should be responsible for certain operations of the Self-Help stations relating to the technical specifications and the use of frequencies, further that the signal distributor should:

- take over the administrative process of lodging the application with the Authority on behalf of the Self-Help station, in which case the broadcaster will reimburse the signal distributor for the costs of lodging the application, as well as any other ancillary costs associated with the administration of Self-Help stations;
- obtain permission from the broadcaster on behalf of the Self-Help stations, to relay that broadcaster's content;
- ensure that, once permission is granted to the Self-Help stations to relay the broadcaster's content, and the Authority has approved such operation, the self-help stations operate in compliance with the legislation regulating the use of radio frequencies in South Africa, and in accordance with ITU and the Authority's regulations;
- inspect the initial installation of the self-help stations, as well as carry out annual inspections of the Self-Help stations, thereafter issue a certificate of compliance to each Self-Help station inspected, and forward it to the Authority and the broadcaster, confirming that each self-help station is operating in accordance with the transmitting characteristics (technical specifications). The certificate will also assist in verifying the accuracy of the self-help stations database; and
- investigate and resolve issues relating to harmful interference from a self-help station, as an interfering broadcasting source, in the broadcasting band. This

¹⁴ Sentech, at page 12.

also applies to a situation where the Self-Help station suffers harmful interference caused by another broadcasting source¹⁵.

The SABC submitted that agreements between the signal distributor, the broadcaster and Self-Help stations should clearly spell out the respective responsibilities and the Authority should be privy to these agreements.

Orbicom/M-Net submitted that M-Net is very involved in the operation of its self-help stations and incurs considerable costs in the management of its Self-Help stations.

*“Parties should be encouraged to form joint co-operative ventures to identify and resolve problems, rather than impose liability on a particular party regardless of the nature or cause of any damage concerned, as the costs are never recovered from the communities”.*¹⁶

Sentech submitted that any reference to the process of granting permission to a Self-Help station should not be referred to as a ‘licensing’ process, because such reference has the effect of classifying the self-help station as a separate category of licensees from the broadcasters and signal distributors. Most importantly the Code of Conduct does not apply to Self-Help stations as they are not responsible for broadcast content.

Orbicom/M-Net submitted that the licensing of self-help stations in their own right was not advisable due to a number of reasons.

*“There would be a host of legal issues in respect of programming rights. Communities operating self-help stations would be liable for programming royalty costs which would make the use of self-help stations unaffordable to communities”.*¹⁷

¹⁵ Sentech, at page 13.

¹⁶ Orbicom/M-Net, at Q.9.

¹⁷ Orbicom/ M-Net, at Q.10.

Orbicom/M-Net submitted that for as long as analogue broadcasting continues frequencies must continue to be licensed to the broadcaster.

6. APPLICATION FEES

The Discussion Paper asked for an opinion on the cost recovery items that needed to be considered regarding fees payable in respect of self-help station applications.

The NAB submitted that the license fee should be determined by the administrative cost incurred by the Authority in processing applications.

Orbicom/M-Net submitted that the Authority should consider recovery items related to the Gazetting of applications and 'man-hours' involved in the processing of an application.¹⁸

Sentech submitted that cost recovery items must be cost-based and that the process be short, simple and cost-effective.

The SABC submitted that Self-Help stations are effectively a temporary community service and therefore should be benchmarked accordingly. It further stated that no hearings are conducted, no analysis of content or programming issues, research or financial viability is undertaken as is the case with a community radio licence application. The SABC suggested that the fee for an application should be R500 as the current fee for a temporary (short term) community radio licence application is R500.¹⁹

¹⁸ Orbicom/M-Net, at Q.4.

¹⁹ SABC, at page 16.

7. FREQUENCY BANDS

The Authority's 1999 Position Paper confined Self-Help stations to an ERP of 50W. However, Annexure 1 to the Position Paper contained a contradictory position which provides that the maximum ERP is 200kW for Band III and 500kW for Band IV/V. The Discussion Paper asked the remedies to be undertaken to correct the situation

Some stakeholders, in bi-lateral consultations, submitted that in the past, some Self-Help stations have been licensed to operate in Band III. It was indicated that due to the limited number of frequencies available in Band II and the demands that will be placed on this band by digital broadcasting requirements, the Authority should consider confining the licensing of Self-Help stations to Band IV and V.

Orbicom/M-Net submitted that the maximum ERP limit for Self-Help stations has always been 50 W and that Annexure 1 to the existing position paper should be deleted.

*"The e.r.p limits of 200kW for Band IV/V assignments may have inadvertently been inserted from the ITU Regional Agreement (Geneva,1989) relating to the Planning of VHF/UHF Television Broadcasting Area and Neighbouring Countries (GE 89)".*²⁰

Orbicom/M-Net further suggested that all Self-Help stations assignments should be included in the broadcast frequency plan so as to afford them protection from interference²¹.

Sentech submitted that Annexure 1 of the Position Paper is not applicable to Self-Help Stations and that it refers to the ITU R2666, which is general directive to Band Planning. It has further submitted that while the maximum effective radiated power of 50W is acceptable in case of self-help stations ,exceptions should be allowed in

²⁰ Orbicom/M-Net, at Q.5.

²¹ Orbicom/M-Net, at Q.15.

certain circumstances which warrant effective radiated power higher than 50W, to the extent that is justified by the circumstances²².

The SABC submitted that to date the vast majority of television self-help transmitters have been licenced in Bands IV and V.

*“The odd exception is Band III. As in the past normal frequency planning will ensure that no harmful interference will be caused as a result of a new proposed frequency at any particular Self-Help transmitter site. Due to the low power nature of Self-Help transmitters this principle will still be as relevant to Digital as it is presently the case in the Analogue signal distribution domain”.*²³

The SABC proposed that the trend of making use of Bands IV and V should continue but that in certain remote areas Band III could also be used.

The SABC also submitted that the Authority mistakenly referred to the Technical Regulations for television broadcasting services and that the ERPs listed did not necessarily pertain to self-help Stations.²⁴

Sentech submitted that Self-Help stations are not radio frequency licencees, and can therefore not be allocated frequencies, whether on a temporary or permanent basis. Sentech submitted that it did not agree with the suggestion that self-help stations should be restricted to Bands IV and V. It suggested that to ensure effective spectrum utilisation, VHF should also be utilised by self-help stations specifically in deep rural areas.

²² Sentech, at page 10

²³ SABC, at page 18

²⁴ SABC, at page 17.

B. Policy

In analysing the framework for the regulation of Self-Help stations the Authority has been guided by, amongst other things, section 2 of the IBA Act which sets out the primary objectives of the Act. The primary objectives of the IBA Act are stated, amongst others, as being “to provide for the regulation of broadcasting activities in the Republic in the public interest through the Authority established by section 3, and for that purpose to-

- promote the provision of a diverse range of sound and television broadcasting services on a national, regional and local level which, when viewed collectively, cater for all language and cultural groups and provide entertainment, education and information;
- promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public;
- ensure that broadcasting services, viewed collectively, develop and protect a national and regional identity, culture and character;
- encourage ownership and control of broadcasting services by persons from historically disadvantaged groups;
- encourage equal opportunity employment practices by all licensees;
- promote the empowerment and advancement of women in the broadcasting services;
- ensure that commercial and community broadcasting licences, viewed collectively, are controlled by persons or groups of persons from a diverse range of communities in the Republic;
- ensure fair competition between broadcasting licensees;
- encourage investment in the broadcasting industry; and
- promote the stability of the broadcasting industry. ”

8. DEFINING SELF-HELP STATIONS

The Authority has decided to amend the definition of Self-Help stations. The words 'community owned and funded' have been removed from the definition. The definition has been left open so as to allow negotiations and discussions between communities and broadcasters concerned to take place on matters related to funding. A Self-Help station is, therefore, defined as:

a community initiated relay station, which transmits the signal of a licensed broadcaster within the licence area of a broadcaster in cases where for technical or other reasons, the broadcasters' signal cannot be received. Self-Help stations are of a temporary nature where communities do not wish to wait for the broadcaster to extend its coverage to that area.

The Authority would also like to emphasise the fact that Self-Help stations are of a temporary nature where communities do not wish to wait for the broadcaster to extend its coverage to their areas. It would be difficult to ensure that the broadcaster whose signal is being relayed meets its universal service obligations if Self-Help stations are to be authorised on a permanent basis. Authorising Self-Help stations on a permanent basis would exonerate the broadcaster's universal service obligation and this would defeat the policy objectives.

9. TERM OF VALIDITY OF SELF-HELP STATIONS LICENCES

The term of validity of a Self-Help station shall be five years. The Authority will consider renewing the licence if the broadcaster has not yet rolled out to the area at the time of the expiry of the licence.

10. APPLICATION PROCEDURES

The Authority has decided that the broadcaster shall be the licensee. The following procedures shall also be adhered to:

- the operator of the proposed Self-Help station shall approach the broadcaster for permission to relay the relevant signal to a particular area;
- if the broadcaster agrees, the Self-Help station operator shall be put in touch with the relevant signal distributor;
- the signal distributor shall provide the necessary technical advice and carry out the technical planning necessary to enable the Authority to issue a licence;
- on submission of the application, the Authority shall, after an evaluation, grant a licence and issue a construction permit allowing the operator to erect the station;
- on completion of the installation, the installer shall supply a certificate of construction to the signal distributor who must evaluate it for compliance with the conditions of the construction permit. If acceptable, this will be forwarded to the Authority who will then issue the licence;
- the signal distributor shall be responsible for the maintenance, administration, supervision and provision of consultancy services to the self-help station operators; and
- the signal distributor shall also have the Self-Help station attached to its broadcasting signal distribution licence.

The Authority shall also take the following into account in the assessment of the application:

- frequency availability;
- the social needs of the public; and
- the broadcaster's coverage progress.

An application for a Self-Help station shall provide the following information and shall be subject to the Authority's technical regulation:

- station name;
- site name;
- metro / local and district municipality name;
- Self-Help station owner;
- channel(s)/station(s) to be relayed;
- current issued frequency/frequencies for the area;
- proposed frequency for transmission;
- detail of channel/station source;
- coverage study;
- population coverage figures for the Self-Help Station;
- transmitter site co-ordinates;
- diagram of Antenna Pattern;
- antenna gain;
- required ERP;
- mid Antenna Height;
- mast height;
- site height;
- frequency offset;
- polarisation; and
- direction of antenna's main beam.

11. RESIDUAL RELATIONS

Self-Help station licences shall have terms and conditions which clarify the duties of all concerned parties.

11.1 The signal distributor shall:

- be responsible for the installation of a Self-Help station;
- carry annual inspection of Self-Help stations, thereafter issue a certificate of compliance to each Self-Help station inspected and forward a copy to the Authority and a copy to the broadcaster, confirming that each self-help station is operating in accordance with the transmitting characteristic (technical specifications);
- investigate and resolve issues relating to harmful interference from Self-Help stations in the broadcasting band; and
- such transmission shall be in accordance with the Authority's technical specifications with regards to signal distribution.

11.2 The broadcaster shall:

- after receiving a request to carry its channel(s)/station(s), act within a reasonable period;
- in the event of declining a request, furnish the applicant(s) and the Authority with reasons for declining such request;
- apply to the Authority for a prior written consent to discontinue operation ;
- notify the Authority in writing of a Self-Help station which will temporarily be discontinued or which will be off the air for more than 30 (thirty) consecutive days at least 10 days prior to such event occurring; and
- provide the community concerned with information regarding its network roll-out plan.

11.3 The Self-Help Station operator shall:

- inform the broadcaster and the signal distributor of any technical and management problems; and

- elect a contact person that the Authority, the signal distributor and the broadcaster can liaise with regarding self-help station operations.

12. FEES

Section 78(1) of the IBA Act states that the Council may make regulations, not inconsistent with the provisions of this Act in relation to-

(bB) payment to the Authority of charges and fees in respect of broadcasting licences, including applications of all descriptions, the issue, renewal, amendment, transfer or other disposal of broadcasting licences of any interest in broadcasting licences and the periodical maintenance of the force and effect of such licences;

(1A) different charges and fees may be prescribed under paragraph (bB) of subsection (1) in respect of different licensees and different categories and types of licensees based on any characteristic or criterion whatsoever, including the outcome, revenue or audience size of a licensee or the antenna height, power output, or radiation pattern.

The Authority has decided to retain the application fee, and renewal fee at R10 000. The Authority will still consider applications for self-help stations every March, July and November or every batch of 10 applications.

13. SELF-HELP STATIONS' DATABASE

The Authority has decided to implement a database management system and will also ensure that sufficient skilled personnel are available to operate these systems. This will be done in conjunction with the broadcasters and signal distributors. In order to achieve the accuracy of the databases, the Authority, the SABC and Sentech's Self-Help station databases will be reconciled to develop a single Self-Help station

database. A team of experts will be established to determine and ensure the accuracy of the new database, as well as monitor its accuracy from time to time.

The certificate of compliance issued to the Self-Help stations, upon inspection by the broadcasting signal distributor, will be used to reflect the accuracy of the self-help station database.

In order to facilitate the achievement of universal service and access in the country, the Authority is encouraging broadcasters and signal distributors to liaise with telecommunications operators on information regarding sites and co-ordinates to facilitate the leasing and non duplication of infrastructure.

14. FREQUENCY BANDS

In terms of Section 2(k) of the IBA Act the Authority has to promote the most efficient use of the broadcasting services. The Authority is vested with powers in relation to administration, management, planning and use of broadcasting services frequency bands. In exercising its powers, functions and duties, it must also ensure that in the use of the broadcasting services frequency bands interference does not exceed acceptable interference levels.²⁵

The ERP of Self-Help stations shall be confined to 50W. Band IV/V shall be used for Self-Help stations. However, in exceptional cases, Band III shall be used for Self-Help stations on the basis of the broadcaster's plan of expanding its coverage or services.

²⁵ Independent Broadcasting Authority Act No. 153 Of 1993, section 29(3)

15. CONCLUSION

The Authority expresses its appreciation to the parties that have made representations and for their contribution to the formulation of this Position Paper. Copies of this document are available from the Authority's library and website www.icasa.org.za.

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